

## **Interrogating Anti-Union Legislative Interventions in Canada**

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“Elect me as prime minister for fifteen minutes. I will make unions illegal. Anybody who remains a union member will be thrown in jail.” Stillborn Conservative politician and Canadian reality TV star Kevin O’Leary uttered these words during the September 20, 2011 edition of the CBC News Network’s *The Lang & O’Leary Exchange*. The show’s co-hosts were discussing the prospect of a strike involving flight attendants at Air Canada and the possibility that the federal government might intervene in order to prevent workers from exercising their legal right to strike. Unrepentant, O’Leary declared “unions themselves are borne of evil, they must be destroyed with evil, so you have to kill their contracts.” He went on to argue that “no one could contain unions in hell. They were so evil they came out of hell and they came upon earth” (CBC Ombudsman 2011).

While most Canadian politicians would never publicly offer such a hysterical and over-the-top assessment of labor unions, the very fact that O’Leary felt he could make such outrageous statements, even as a talking head, suggests something about the level of anti-union discourse in Canadian society. There is no doubt that overt anti-union sentiment, policy and practices are on the rise in Canada. From a Walmart in Jonquiere, Quebec that shut down in 2005 in response to its employees’ decision to unionize; to a bitter thirty-six day garbage strike in Toronto in 2009 that infuriated the public and helped fuel the election of populist right-winger Rob Ford as the city’s anti-union Mayor; to the owner of a small furniture manufacturer near Fort Frances, Ontario, who announced he would close down his business in 2015 because he argued that working with a union would infringe on his Christian religious beliefs, workers in all sectors of

the economy are facing aggressive anti-union employers emboldened by an increasingly anti-union political climate. In short, organized labor is under attack.

In their study of global anti-unionism, Tony Dundon and Gregor Gall (2013: 1) define anti-unionism as a “conscious, deliberate decision to undermine and erode hypothetical, potential and actual workplace collective unionisation and union organization. It concerns issues of identity (individual and collective), power resources and power mobilisations, managerial and societal ideology, and the structure and configuration of material interests.” In this paper, we stretch that definition to include union avoidance strategies, like union substitution. This strategy involves tactics designed to dissuade workers from pursuing unionization through the introduction of workplace policies aimed at replacing the need for union representation.

This paper explores and interrogates the multi-faceted nature of anti-unionism in Canada. Specifically, we examine the political-economic, organizational and ideological factors that shape anti-unionism in order to better understand the rise, nature, evolution, and effects of anti-union sentiment, action, and policy. The paper involves three separate, but related, areas of focus: 1) Government legislation, including *ad hoc* or temporary measures and more permanent changes to labor laws, that constrain union action, rights or freedoms; 2) Employer tactics in both the workplace and in the political sphere to prevent unionization and weaken existing unions; and 3) worker anti-unionism, both inside and outside of unions, focusing on the material or experiential—and not merely ideological—bases of resentment or criticism.

### **Contextualizing Anti-Unionism: Politics, Law and Culture**

In Canada, scholarly work on anti-unionism has focused primarily on the role of governments in promulgating anti-union legislation. The labor laws that governments adopt play a fundamental

role in either facilitating or impeding union membership, and in shaping what unions can do once they exist. A review of government legislation reveals that, while unions were granted more legal standing and support over time, every advance in labor rights retained an anti-union kernel of restriction.

Anti-unionism was the legal norm in Canada before the middle of the twentieth century. Prior to the emergence of Canada's modern system of labor relations in 1944, employers wielded enormous power over workers, which most governments endorsed. Until 1872, unions were often considered criminal conspiracies "in restraint of trade," and employers could bring charges against workers for union activity. The most extreme expression of this was Nova Scotia's 1816 legislation that "annulled all contracts and agreements through which workers had attempted to advance their wages, lessen their hours, or control any aspect of their trades" (Palmer 1992: 65). Although such charges were infrequent and convictions rare (Tucker 1991; Craven 1984), the threat of legal action always loomed large over the union movement.

In 1872, the *Trade Unions Act* decriminalized unions and made it so that workers could not be prosecuted for acting together to improve their terms and conditions of work. However, with the new law, unions did not gain legal rights, and the accompanying *Criminal Law Amendment Act* made many of the tactics used to place pressure on employers illegal (Palmer 1992: 111). Canadian governments' early approach meant that employers could still, with impunity, fire workers who expressed support for unions, refuse to negotiate with unions, or renege on deals made with unions. While workers could and did pressure employers into curbing such behavior through strike action, employers could always rely on the courts to grant injunctions to put an end to such disruptions (Savage and Smith 2017: 21-26). In short, the system was very much rigged in favor of employers.

This reality caused mounting tensions that erupted more and more frequently as industrialization proceeded. With no support from the law, unions and workers continued to use direct action, whether through boycotts, local or general strikes, as the only way to build leverage to support their demands for fairer terms and conditions of work. As it became increasingly clear that unions would not wither in the face of such inhospitable conditions, the federal government's main concern turned to the containment of industrial conflict. The mandatory conciliation process and cooling-off period required by the *Industrial Disputes Investigation Act* of 1907 placed roadblocks in the organization of strikes, and gave employers additional time to stockpile inventory and hire replacement workers, commonly referred to as scabs. Where these legal procedures did not produce industrial peace, coercion from the RCMP and other police forces helped to crush disruptive strikes.

Canadian workers did not passively accept this state of affairs. Because unionists learned lessons from workplace struggles and continued to organize economically and politically, government's legislative "solutions" had to be revisited. Between 1940 and 1945, union membership in Canada nearly doubled as unions' capacity to win meaningful gains for workers was amplified because of a labor shortage during the Second World War. Mounting industrial conflict between unions and employers during the war, combined with unprecedented electoral support for the socialist and labor-friendly Cooperative Commonwealth Federation (CCF) party, convinced Mackenzie King's Liberal government to enact Order-in-Council PC 1003 in 1944, thus establishing a legal framework to regulate both unionization and collective bargaining between unions and employers (Braley-Rattai 2017: 89). Based on the Wagner model of labor relations enacted in the United States in 1935, PC 1003 revolutionized labor relations in Canada by guaranteeing compulsory union recognition and a duty to bargain with workers who opted for

unionization. This model was made permanent for most private sector workers through the *Industrial Relations and Disputes Investigation Act* in 1948 (later renamed the *Canada Labour Code* in 1967), and the various provincial labor relations acts that ensued through the 1950s. Legal legitimacy for unions had been achieved after decades of workers' struggle, bloody confrontations with the state, and epic battles with employers who showed far more concern for the bottom line than for workers.

The post-war "compromise" between business and labor helped to usher in what is commonly referred to as the "Golden Age" of capitalism. A growing Keynesian consensus accepted labor's role in driving economic growth through higher wages and mass consumption. Generally, businesses prospered, the economy grew, and workers' standard of living improved, although unevenly. While the business community did not universally embrace the new system of labor relations, in general unions gained unprecedented and widespread legitimacy in the post-war period. Union membership grew steadily in the post-war era, aided by the passage of the federal *Public Service Staff Relations Act* (PSSRA) in 1965, which granted partial bargaining rights to federal public servants and was achieved in the aftermath of an illegal strike by postal workers (Evans 2013: 21).<sup>1</sup> In turn, public sector unionization in the provinces spread like wildfire, fueling the growth in union density to an all-time high of 34.2 percent by 1987 (Akyeampong 2004: 6).

As labor unions in Canada experienced significant growth, employer organizations became increasingly nervous about the growing power of unions at both the bargaining table and in

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Notes

<sup>1</sup> While the PSSRA provided federal public sector workers with bargaining rights, the scope of issues over which bargaining could legally take place was curtailed. For instance, federal public sector unions cannot bargain over job classifications or promotion processes, as is typical in most collective agreements.

broader political and economic spheres. Governments began to depart from the post-war labor regime in their attempts to solve the economic crises of the 1970s by restricting workers' wages and labor rights. With the backing of the business lobby, beginning in the late 1970s and through the 1980s, both federal and provincial governments issued a series of legislative changes designed to restrict the exercise of union power, primarily in *ad hoc* ways. During this period, governments began using wage controls, back-to-work legislation and a widening definition of essential workers without the right to strike with greater frequency, particularly to constrain public sector unions' militancy and bargaining power (Panitch and Swartz 2003). However, in general, legislation was used to create exceptions to the underlying labor relations regime, which remained more or less intact.

These temporary 'solutions' were eventually replaced by more permanent limits on public sector unions' power and abetted by the dynamics of neoliberal globalization, in which capital mobility, deindustrialization and the rise of precarious employment undermined private sector unions. The 1990s also saw the emergence of more permanent changes to labor legislation at the provincial level that undermined all unions' capacities to organize. Many provincial governments made unionization more difficult by requiring certification votes in addition to the signing of union cards.<sup>2</sup> A significant literature emerged to document the negative effect of these legislative

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<sup>2</sup> Canadian provinces generally use one of two systems for certifying unions. Under what is typically known as card-based certification, unions require a majority (the number differs by jurisdiction) of the employees in a workplace to sign union cards in order to be recognized by the provincial labor relations board as the official bargaining agent for the workers. Under the mandatory vote system, the system used in vast majority of provinces, unions are required to sign up a significant portion of the employees on union cards (again, the exact number differs by jurisdiction) before filing a certification application with the provincial labor relations board which, in turn, triggers a mandatory board-supervised vote a number of days later. The union then needs to win at least 50 percent plus one of the votes cast in

changes on the success of unionization drives (Martinello 2000; Martinello and Yates 2004; Campioletti et al. 2007; Doorey 2007-08; Slinn 2004).

Since the 2008 economic crisis, governments have renewed both their austerity measures and efforts to pass anti-union legislation to permanently alter the framework for labor rights in a way that would benefit employers or, in many cases, government as the employer. While anti-union legislative incursions on workers' rights in Canada were nothing new, some of the more recent changes have threatened to do more than fray the edges of the post-war labor relations framework. Instead, recent anti-union legislative proposals have sought to undermine the autonomy and organizational basis of unions in an unprecedented fashion. For example, in 2015, the Harper Conservative government passed Bill C-377, an extremely onerous union financial disclosure law designed to undermine the political activities of unions, and Bill C-525, which did away with card-based union certification in federally regulated workplaces.<sup>3</sup> The latter legislative change was clearly designed to make it more difficult for workers in federal jurisdictions to exercise their right to unionize. In Saskatchewan in 2008, Premier Brad Wall's government introduced permanent restrictions on the public sector workers' right to strike, giving the government the right to unilaterally designate who was an essential worker and failing to provide

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the secret ballot certification election to become the official bargaining agent for the workers. The mandatory vote model gives employers an advantage because, during the waiting period before the certification vote, workers are typically bombarded with anti-union literature and an assortment of management threats and promises designed to dissuade them from following through with unionization. Counterintuitively, the secret-ballot vote actually inhibits workplace democracy because it provides employers with both opportunity and incentive to influence the outcome of the vote through a combination of intimidation, coercion and misinformation.

<sup>3</sup> Both Bill C-377 and C-525 were subsequently repealed by the Trudeau Liberal government in 2017.

an alternative means to resolve collective bargaining disputes for those workers.<sup>4</sup> In Ontario in 2012, the McGuinty Liberals curbed education workers' collective bargaining rights and right to strike while eliminating the right to strike altogether for Toronto Transit Commission workers in 2011.<sup>5</sup> In Manitoba, one of the first legislative acts of the new Progressive Conservative government of Brian Pallister, elected in 2016, was to replace the province's card-based system for union certification with the mandatory vote model favored by employer organizations. In Nova Scotia, Premier Stephen McNeil's Liberal government has waged war against the province's public sector unions. In March 2014, the provincial government introduced legislation curbing the right to strike for health and long-term care workers, in April 2015 it passed a law allowing universities to override collective agreements and ban strikes for up to 18 months, and in August 2017 imposed a wage package on public sector workers who had not reached their own negotiated settlements (Laroche 2016; Chiose 2015; Gorman 2017).

Admittedly, there have been pro-union reforms to labor legislation since the 1990s that have played an important role in promoting unionization. Although few and far between, these reforms have included mechanisms to facilitate union certification and bans on the use of

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<sup>4</sup> Some of the Wall government's restrictions were reversed in 2015 as a result of a Charter challenge by the Saskatchewan Federation of Labour, which produced a landmark Supreme Court ruling constitutionalizing the right to strike in Canada.

<sup>5</sup> A group of education unions challenged the constitutional validity of the government's action in 2012 and in 2016 the Ontario Superior Court ruled in their favour. As of September 2017, the government had negotiated multi-million dollar settlements with some, but not all, of the unions involved.

replacement workers during strikes in some provincial jurisdictions.<sup>6</sup> However, we must note that many of these reforms have been promptly rescinded upon a change of government. For example, Ontario's short-lived anti-scab law, adopted in 1993 by the Bob Rae's NDP government, was the first piece of legislation repealed by the incoming Mike Harris Progressive Conservative government in 1995. In fact, the Harris Conservatives rolled back all of the NDP's pro-union legislation and then some (Savage 2016: 300). Subsequent Liberal governments refused to reintroduce the ban on replacement workers or restore card-based union certification outside of the building and construction trades (Savage 2016: 303). Even more permanent pro-union labor law reforms in other provinces have failed to reverse a steady decline in union density across Canada, partly because they have not fundamentally challenged the power imbalance between employers and workers, especially in the growing retail and private service sectors. Indeed, in the past forty years, unions in Canada have experienced far more legislative defeats than victories, thus further tilting the labor relations framework to the benefit of employers intent on resisting unionization.

Beyond the legal framework, workers seeking to unionize also face an increasingly hostile anti-union social and cultural climate that is primarily driven by the corporate mainstream media. Workers are constantly bombarded with anti-union views on television, in films, and in print media that serve to undermine support for organized labor. Unions are portrayed as selfish, greedy or corrupt; outdated or out of touch with economic realities; trouble-making and adversarial to the point of being self-destructive; or irrelevant and powerless in a globalized

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<sup>6</sup> For example, NDP governments in Ontario (1990-95) and British Columbia (1991-2001) and the first Parti Quebecois government in Quebec (1976-1981) all made pro-union reforms to legislation, even if these changes did not dramatically alter the balance of class forces.

economy. A growing body of research has demonstrated how media influence over society's attitudes and opinions about unions has served to paint workers' organizations as scapegoats for many of society's ills, from unemployment, to inflation, to public debt (Parenti 1986; Martin 2004; Fletcher 2012). Part of the problem is that media coverage of union activities tends to focus exclusively on strikes and picket-line confrontations, thus reinforcing the idea that unions are by and large disruptive and self-interested.

Labor unions must confront these attitudes and opinions in a hostile political and ideological climate in which, rightly or wrongly, unions are seen as defenders of sectional rather than the public interest. The negative effects of the 2008 Great Recession and the longer-term decline in working-class wages and living standards have made it even more difficult for unionized workers to defend their collective agreements and their rights to dignified and secure work.

### **Understanding Anti-Union Employers in Canada**

Canada's anti-union legal and cultural environment did not emerge from thin air. Rather, employers have actively cultivated a climate conducive to anti-union attitudes, actions and legislation over an extended period. It is commonly assumed that Canadian employers are not as anti-union as their US counterparts (Rose & Chaison 1985; Warner 2013). However, it would be naive to think that employer anti-unionism does not have deep roots in Canada. In the first one hundred years of its existence, the labor movement in Canada faced virulent hostility from employers and leading political figures (Palmer 1992). Most notably, the Winnipeg General Strike of 1919, involving 30,000 strikers, was violently put down by the RCMP after the federal government intervened decisively on the side of employers, ordering striking workers in federally regulated industries to report to work or face dismissal, amending the *Immigration Act*

to facilitate the deportation of British-born immigrants, and expanding the Criminal Code's definition of sedition in order to target strike leaders and supporters (Bercuson 1974; McCormack 1977). Violent repression of union activity was also common in the mines of Cape Breton, Northern Ontario and Western Canada. Despite a recommendation by a conciliation board in favour of union recognition for gold miners in Kirkland Lake in the early 1940s, management fiercely resisted worker demands for union recognition. The provincial government intervened in favour of the mining company, sending police to Kirkland Lake to protect scab labor in order to break the miners' strike. The labor dispute bankrupted the union (Palmer 1992: 286-287). In the 1930s, Hamilton's Dofasco famously avoided unionization by the United Steelworkers using a combination of coercion and consent, both firing union activists to foster fear and offering profit-sharing and other corporate welfare programs to foster workers' identification with the "Dofasco family" (Storey 1983). Even after the Second World War, when the class compromise discussed above emerged, unions' acceptance as legitimate representatives of workers was far from universal (Smith 2008; Patrias 2015). Throughout this period, many employers continued to work very hard to prevent unions from gaining a foothold in their workplaces, using every advantage available within the legal framework—and sometimes outside of it—to undermine both union drives and bargaining if and when a bargaining unit was actually certified.

For instance, a hard-fought three-year campaign by the Retail, Wholesale and Department Store Union (RWDSU) to organize Eaton's 15,000 mostly female workers in the 1950s failed because of the atmosphere of fear created by the company's virulent and expensive anti-union propaganda campaign (Sufrin 1982). Carmela Patrias (2015) has documented how anti-union employers in the mid-1950s in Niagara relocated their plants in order to escape unionization, a

tactic replicated by Goodyear in their move from Etobicoke to Napanee in 1990 (Palmer 1994). Julia Smith (2014) and Rosemary Warskett (1988) have both studied the failed attempts to organize bank workers amid fierce anti-union tactics by the banks in the late 1970s. It is also noteworthy that employers' political representatives, especially in form of the Canadian Manufacturers Association, actively opposed any pro-union measures being considered by government throughout the post-war period (Smith 2008). However, in the context of significant unionization in both private manufacturing and public services, these anti-union efforts seemed to be at the extremes.

Overt anti-union sentiment, policy and practices have moved from the margins to the mainstream. Some employers' grudging acceptance of unions has been revealed as fleeting as many of them have moved to severely diminish unions' relative power or have taken extensive steps to avoid them from gaining a foothold in their workplaces (Drache and Glasbeek 1992; Thomason and Pozzebon 1998; Bentham 2002; Adams 2005; Coulter 2014). In this period, some Canadian employers have returned to using sophisticated union substitution strategies by creating mechanisms for worker voice that remain employer-controlled (Lewchuk and Wells 2007), a strategy much used in the pre-war period (Storey 1983; McCallum 1990) but which faded when unions gained legal legitimacy.

Explicitly anti-union employer organizations like the Canadian Federation of Independent Business, Merit Contractors, "think tanks" like the Fraser Institute or Montreal Economic Institute, and advocacy organizations like LabourWatch and the National Citizens' Coalition have also emerged with mandates to advocate for and mobilize around legislation that would severely hobble the labor movement's economic and political capacities. Taking inspiration from their U.S. counterparts, such organizations have put significant energy and resources into this

anti-union political project (Stevens and Tucker 2015). For example, the National Citizens' Coalition recruited and then financed the legal case of Merv Lavigne, a community college professor who was challenging the constitutional legitimacy of the automatic union dues check-off system in Ontario in the mid 1980s (Savage and Smith 2017: 99-102). While the Coalition framed the constitutional challenge as an issue of workers' freedom not to associate with union political causes with which they disagreed, a fundraising letter to the Coalition's supporters revealed that the true goal of the legal tactic was to "hit at the heart of the left wing, not only in Ontario but across Canada as well" (Kershaw 1985). More recently, Merit Contractors and LabourWatch have played a leading role in pushing Bill C-377, the private member's bill that amended the *Income Tax Act* to require unions to report publicly the details of any expenditure over \$5000 (Stevens and Tucker 2015). Framed as an attempt to enhance the transparency of unions, the uneven application of such a principle—corporations would not be similarly subject to such reporting requirements—indicated that other goals were being pursued, including setting the stage for the introduction of a US-style "paycheck protection act" that would allow individuals to opt out the portion of dues going to political advocacy, thereby crippling the funding of progressive political and social causes.

Although post-war labor law has always given employers a variety of anti-union tools, some employers have sought to tip the balance even further in their favour. An early example from Nova Scotia involves the infamous Michelin Bill. Passed in 1979 at the behest of the Michelin tire company, the law retroactively rewrote the province's labor laws to force any union attempting to represent the company's workers to organize all three of the Michelin plants in Nova Scotia all at once, thus scuttling a union drive that was then underway at one of the plants and seriously undermining any union's ability to unionize Michelin workers in the future

(Langille 1981). Similarly, in Ontario in 1998, Bill 31, dubbed the “Wal-Mart Bill” by its opponents, was passed by the anti-union Progressive Conservative government of Mike Harris to put an end to automatic union certifications, a remedy available to the Labour Board if it found an employer had engaged in unfair labor practices to derail a unionization drive. The legislative change was pushed by retail giant Wal-Mart, after one of its Windsor, Ontario locations was unionized in this fashion (Schiller 1998). The workers opted to decertify the union shortly thereafter in the face of an intense union busting campaign by the company.

Employers intent on resisting unionization frequently exploit social-cultural biases, economic fears, and weaknesses in the law to build opposition to union certification within their own workforces. Although termed more neutrally as “union avoidance”, this is union-busting, an employer-based line of attack used to prevent workers from organizing a union or to decertify an already existing union. While many forms of union-busting are illegal, employers often fear the consequences of unionization more than the potential penalties they may face for engaging in union-busting activities. Employers have become increasingly skilled at using the existing labor law regime to their advantage. Since the 1990s, attempts to unionize global corporate chains in fast food and retail have been met with fierce union avoidance campaigns. Repeated attempts to unionize McDonald’s restaurants, for example, have mostly fallen flat. While there have been isolated organizing success stories at individual locations, the certified units have struggled to win collective agreements in the face of a constant barrage of union-busting tactics from management, ranging from harassment, threats and intimidation, to special perks and side deals. In one extreme case, owners of a McDonald’s in the Montreal suburb of Saint-Hubert closed down the restaurant after workers opted to join the Teamsters union (Huot 1998: 25). Walmart workers in Jonquiere met the same fate in 2005 after the corporation decided to shut down that

location after workers there voted to unionize for fear the United Food and Commercial Workers might gain an organizing toehold (Savage and Smith 2017: 165). The extreme measure of closing down a restaurant or retail outlet in order to avoid unionization has certainly had a chilling effect on union efforts to organize workers in these sectors.

Union avoidance strategies are certainly not confined to the private sector. Public sector employers have also been known to aggressively oppose unionization. Most public sector workers' rights to unionize, bargain and strike were not established until the 1960s, nearly twenty years after their private sector counterparts won enabling legislation, and only after significant struggle that included a willingness to engage in wildcat strikes or mass protest, as was the case for postal workers and Ontario teachers.

A more recent case of public sector anti-unionism can be found in Ontario's community colleges. Ontario colleges have fought tooth and nail against unionization of part-timers and have used many of the anti-union tactics typical of private sector employers, including the distribution of carefully worded yet misleading FAQs to employees and the use of legal strategies designed to delay and ultimately stymie the establishment of bargaining rights. Until October 2008, the *Colleges Collective Bargaining Act* specifically prohibited part-time college workers from unionizing. Once the legislation was amended to allow for their unionization, the Ontario Public Service Employees Unions (OPSEU) immediately launched a province-wide organizing drive amongst part-time faculty and staff, who signed enough union cards to trigger a board-supervised certification vote in February 2009. However, a prolonged dispute ensued over which employees were eligible to vote and whether the union had met the established threshold of 35 percent of cards signed to have a legitimate vote (Mihell 2009). The drive was ultimately defeated. In 2016, the union began a new organizing drive for sessional contract faculty, but the College Employer

Council and a group of individual college presidents used a myriad of anti-union tactics to effectively derail the unionization effort (OPSEU 2016). A renewed drive resulted in a certification vote in October 2017, but the results had not been released as of November 2017.

Meanwhile, the College Employer Council provoked a five-week province-wide strike by unionized full-time and partial-load college professors in October 2017. During the strike, the College Employer Council (CEC) released public statements designed to actively stoke divisions between students and faculty and to undermine public support for the strike (College Employer Council 2017). The CEC strategy enraged union members, who voted 86 percent against a proposed settlement in a labor board-ordered ratification vote requested by the Council (Chiose and Giovannetti 2017). While many students backed their professors, others came out in support of the College Employer Council. The Algonquin College Students' Association even spent \$20,000 on ads aimed at faculty, urging them to end their strike. "Screw respecting either teachers or process," commented one student on the Association's Facebook page. "Get us the hell back in class. Teachers are only using us for leverage, so why the hell should we care about them?" (Miller 2017). This comment is indicative of how public sector strikes can foment and spread anti-union sentiment amongst service users and the broader public. The labor dispute came to an end only after the provincial government ordered the striking professors back to work in November 2017.

No matter the sector, union-busting is a multi-million dollar business, involving lawyers and consultants responsible for devising strategies and tactics for employers, managers and supervisors to keep workplaces union free. Union-busting can take various forms, including active intimidation of union supporters, captive audience meetings, sowing dissension in the workplace, exploiting divisions between workers, spreading misinformation about unions, or

smearing union supporters. Orchestrating an effective anti-union campaign often relies on a combination of union substitution (carrots) and union suppression (sticks).

Union substitution techniques are designed to increase worker loyalty to the employer, making employees less likely to identify with the union and making it more difficult for workers to see their interests as distinct from the employers'. Typical techniques include the voluntary provision of extras like signing bonuses, profit-sharing arrangements, free dry-cleaning services, educational reimbursements, and employer-sponsored sports leagues, holiday parties and family picnics (McCallum 1990). Employers' use of social activities has a long history, designed to foster workers' feelings gratitude to a caring and generous employer. Employers also work to create the sense of belonging to a workplace "family", using gendered language and power dynamics to reinforce the employer's father-like status over workers (Sangster 1993). Some non-union companies, operating in sectors with higher union density, try to keep wages and working conditions in line with those of unionized workers in the same sector. Historically, this was the case with steel companies Dofasco (non-union) and Stelco (union) in Hamilton, Ontario (Storey 1983), and is currently the case with casinos in Niagara Falls (non-union) and Windsor (union). The desire to remain union-free has created a situation wherein casino workers in Niagara receive comparable wages and vacation time provisions as workers in Windsor without having to pay union dues, thus creating a disincentive to unionize (Patrias and Savage 2012: 152).

Some employers also use voice mechanisms for employees to air their grievances and resolve disputes without having to formalize them in a legally binding collective agreement. These include open-door policies and formalized complaint procedures which, while not legally enforceable as a union-negotiated grievance procedure would be, give the impression that employee complaints are dealt with fairly and consistently and that employee input is valued. In

a case study of global automotive parts supplier Magna International, Wayne Lewchuk and Donald Wells (2007) show how management successfully suppressed support for unionization by reconfiguring its model of labor relations, providing rewards for worker ideas that serves the company's productivity goals and tying worker performance to increased profitability in the form of a profit-sharing plan. Tellingly, even after the Canadian Autoworkers Union struck a controversial deal with Magna in 2007 to facilitate unionization of its workforce in exchange for abandoning the right to strike and a formal grievance resolution system, workers at Magna still showed no interest in union representation.

If union substitution represents the carrot, union suppression techniques are the stick. Union suppression involves coercive tactics designed to plant anti-union seeds of doubt in workers' minds and play on their fears concerning the impact of unionization on job security. The strategy typically casts the union as a self-interested and disruptive third party whose involvement in the workplace will interfere with the existing labor-management dynamic. Union suppression techniques include the visible targeting of pro-union employees for discipline and dismissal, anti-union videos designed to fill workers' heads with anti-union talking points, and captive audience meetings where workers must attend an employer-led meeting on company time and are forced to listen to the employer's opinions on unionization (Doorey 2007-2008).

### **Conceptualizing Workers' Anti-Unionism**

Beyond employers' union avoidance strategies, an even more troubling trend for the labor movement is the rise of anti-union sentiment amongst workers themselves. Employer and government efforts to combat unionization have been buoyed by what Tom Walkom (2010) has called "reverse class resentment"—the tendency of working-class people to direct their anger at

better-off union members rather than wealthy corporations and the financial elite. While it is fairly obvious why employers, concerned with relative loss of power and profits, would be anti-union, explaining worker anti-unionism is trickier given the very clear advantage unionized workers enjoy over their non-union counterparts in terms of wages, benefits, and other workplace entitlements.

At present, there is a tendency for the union movement to dismiss worker anti-unionism as the product of media or employer manipulations, without examining those elements in workers' experiences—of the economy and of unions themselves—that may foster anti-union sentiment. Dominant discourses in the labor movement point to workers' lack of knowledge about what unions really do, or to corporate-dominated media feeding the public anti-union myths (Fletcher 2012). Union strategies have thus focused on public relations based on the idea that if the public had better information they would support unions. While anti-union media bias is well-documented, public relations strategies are not ultimately satisfying in that they do not take seriously the lived experiences of workers and their encounters with unions. Raising the prospect that there may be a legitimate basis to some workers' anti-unionism often draws a defensive reaction from many movement leaders and activists, thereby preventing clear-eyed research, internal transformations, strategic thinking about how to respond in ways that might actually strengthen unions.

Meaningfully addressing this state of affairs means tackling the question of anti-unionism from a critical perspective – one that recognizes the important role the labor movement plays in society, while taking seriously the elements in workers' lived experiences with unions that may foster anti-labor sentiment. In short, we need to reclaim criticism of the labor movement in order to strengthen the labor movement. In the words of Bill Fletcher Jr. (2012: 184), “if that seems

paradoxical, keep in mind that it is to the extent to which unions address problems that have haunted them, that they're sufficiently positioned to withstand even the toughest external assaults."

The sources and dynamics of workers' anti-unionism raises a number of important questions: what is it about collective agreements, unionized environments, or union decision-making practices that may alienate some workers? How does unions' mixed record on gender and racial equity complicate workers' attitudes towards unions? There is no question that some of the very strategies central to union power in the workplace, like seniority, grievance procedures, controlling entry to a workplace or the boundaries between jobs, have exclusionary effects that undermine support for the union. These issues become ever more pressing when more and more workers' jobs are precarious and they are unable to gain access to unionized work. We see a similar dynamic in workplaces that have introduced tiered pay and team incentive bonuses. These controversial management initiatives are clearly designed to divide workers, pitting them against one another and generally undermining support for their union, which agreed to these systems through collective bargaining as a way to save jobs. This trend points to the danger of unions accepting concessionary deals, given that they corrode the very basis of solidarity amongst workers so essential to union life.

Anti-union sentiment amongst workers is unquestionably of central strategic importance for unions who wish to expand their numbers through membership recruitment, organization of new workplaces, and greater membership activism and engagement. Moreover, overcoming anti-unionism in general is key to expanding unions' public support and legitimacy in larger debates about political and social priorities. Understanding these processes and the actions needed to

respond effectively is critical for a labor movement experiencing important demographic shifts and declining political and economic clout.

From government legislation crafted specifically to make unionization more difficult, to employers' efforts to block or decertify unions in their workplaces, to right-wing lobby groups and corporate media actively working to undermine the legitimacy of labor unions, to a growing segment of workers who espouse anti-union views that stoke division and resentment within the working class, unions are clearly under attack. In this paper, our aim was to clarify the multi-faceted dynamics of anti-unionism in Canada and begin to consider how the labor movement might respond. The enormity of the union movement's task in this regard cannot be understated. Although the rise of precarious work arrangements in Canada have helped to grow levels of income inequality, workers have not turned to labor unions in large numbers combat this trend. This is a significant problem that requires not only legislative reforms to facilitate unionization for workers in all sectors, but also strategic thinking on the part of labor unions about addressing and ultimately overcoming workers' real and in some cases legitimate aversions towards unionization. How unions tackle the problem of anti-unionism will require activism and education both inside and outside of the labor movement.

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